

**CLARK COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM**

<b>Issue:</b> Report on Coroner's Inquest Process	<b>Back-up:</b> AIDR #313
<b>Petitioner:</b> Virginia Valentine, County Manager	<b>Clerk Ref. #</b>
<b>Recommendation:</b>  <b>That the Board of County Commissioners receive a status report regarding the review of the coroner's inquest process; and direct staff accordingly.</b>	

**FISCAL IMPACT:**

None by this action.

**BACKGROUND:**

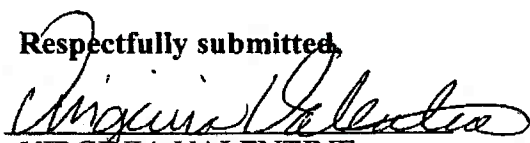
NRS 244.163 permits Boards of County Commissioners to create the office of county coroner. Clark County has elected to do this and the duties of the coroner are articulated in Chapter 2.12 of County Code. One of the responsibilities of the coroner is to conduct coroner's inquests. This process is set forth in County Code Chapter 2.12.080.

Due to an increase in the number of police officer involved shootings, County staff was directed to meet with community stakeholders and hold public input sessions in order to gather information and review possible changes to the current coroner's inquest process. The group of stakeholders has been meeting since August 2006 and has come up with several recommendations for the Board to consider. AIDR #3135 provides further detail on the recommendations and discussions surrounding the inquest process.

Staff will provide a report and seek further direction on how to proceed in amending the current process.

**RECEIVED AS RECOMMENDED-STAFF DIRECTED TO WORK WITH SEATTLE OFFICIALS, RECONVENE COMMITTEE TO DETERMINE PART OF PROCESS THAT MAY WORK IN NEVADA & REPORT BACK TO BOARD WITH RECOMMENDED CHANGES**

Respectfully submitted,

  
VIRGINIA VALENTINE  
County Manager  
JBL:dsu

Cleared for Agenda

**3/20/07**

Agenda  
Item #

**124**

# AGENDA ITEM DEVELOPMENT REPORT

**OFFICE OF THE COUNTY MANAGER  
CLARK COUNTY, NEVADA**

**AIDR No.:** 3135

**VIRGINIA VALENTINE**  
County Manager

**Date:** 3/13/07

**Agenda Date:** 3/20/07

**DARRYL MARTIN**  
Assistant County Manager

**Originating  
Department:** Manager's Office

**ELIZABETH MACIAS QUILLIN**  
Assistant County Manager

**Contact/Ext:** Elizabeth Macias Quillin/3225

**CHRISTINE ROBINSON**  
Assistant County Manager

**Issue:** Coroner's Inquest Process

## **Subject/Title:**

The County Commission directed staff to review the coroner's inquest process following a number of complaints regarding the process. This report summarizes the issues discussed and provides several recommendations resulting from several meetings with stakeholders and two public forums.

## **Recommended Action:**

Receive a status report regarding the coroner's inquest process; and direct staff accordingly.

## **Summary:**

NRS 244.163 permits counties of a certain population to create the office of the coroner. Clark County elected to create this office and to establish an inquest process to review deaths. The current process outlined in County Code 2.12 permits the coroner to decide when to call an inquest. Historically, the inquest process in Clark County has been utilized mainly for deaths involving peace officers.

If an officer is involved in a death that is clearly caused by criminal conduct, the case is prosecuted and the coroner's inquest process is not used. For example, last year when the Nevada Highway Patrol trooper crashed into the rear end of a car carrying five immigrants, killing four of the passengers, the district attorney found that the trooper acted in a criminal manner and the case went straight to prosecution. An inquest was not necessary since the purpose of the inquest is to determine whether the officer is criminally liable.

In small rural counties, the sheriff may decide whether or not to conduct an inquest. Washoe County does not have an inquest process. The district attorney decides whether or not to file charges against the officer after reviewing the evidence. Unlike Clark County's inquest process, there are no public hearings to determine if the shooting was justified.

### **Current Process in Clark County:**

A coroner's inquest is a non-adversarial hearing to determine whether a death is justified, negligent or criminal. Cross-examination is not appropriate in a coroner's inquest. A hearing master presides over the hearing and makes rulings on the evidence and on what questions may be asked. A hearing master is selected from a group of licensed attorneys that have been pre-approved by the Clark County Commission. With the exception of one rural justice of the peace, the hearing masters are not elected judges.

A jury is selected through the normal jury selection process. Once seated, a jury hears evidence that is presented by a deputy district attorney. The district attorney presents evidence and asks oral questions of the witness in front of the jury. He will call the witnesses and ask them what happened. There is no cross-examination on behalf of the decedent's family. After the district attorney finishes questioning the witness, jurors are permitted to ask questions. The hearing master decides if the juror's question may be answered by the witness.

Clark County Code 2.12.080 defines "interested parties" as an attorney licensed in the State of Nevada and/or immediate family members of the deceased. Often, the family has an attorney present at the proceedings. This attorney is seeking evidence to decide whether or not a civil lawsuit against LVMPD is warranted. If an interested party has questions, he/she must submit them in writing to the hearing master. The hearing master reads the questions silently and determines whether to ask the question. The written questions are made a part of the record, however, the questions are not read aloud during the proceedings unless the hearing master decides to ask the interested parties' question. After hearing all of the evidence, the jury retires to deliberate and make a finding. If the jury finds that the officer's conduct was criminal, the district attorney has the option of pursuing criminal charges against the officer. If the jury returns a finding of justified or excusable, the process is over. The jury's decision is not binding on the district attorney. The district attorney always has the option of prosecuting an officer if he believes that the officer acted in a criminal fashion.

### **Review of the Current Inquest Process:**

Due to an increase in the number of police officer involved shootings, the Board of County Commissioners at its August 1, 2006, meeting directed County staff to meet with community stakeholders and hold public input sessions in order to gather information and review possible changes to the current coroner's inquest process. The group of stakeholders has been meeting since August 2006, has held two public input sessions and has identified several recommendations for the Board to consider:

#### **1. BROADEN DEFINITION OF INTERESTED PARTIES**

The committee is recommending that the definition of "interested parties" be broadened. The ordinance currently allows immediate family members to ask questions. It excludes grandparents, who are often raising their grandchildren, and cohabitating significant others.

The committee recommends broadening the definition of "interested parties" to allow a judge to determine whether someone is an "interested party".

## **2. REPLACE HEARING MASTERS WITH JUSTICES OF THE PEACE**

There has been some concern that hearing masters are not accountable to the public because they are not elected officials. The coroner's inquest review committee is recommending that the hearing masters be eliminated. They are recommending that a justice of the peace who is a licensed attorney preside over the proceedings. The rationale for this recommendation is that as elected officials, the justices of the peace are accountable to the public. They are also accustomed to presiding over legal proceedings and can maintain control of the proceedings.

## **3. REPLACE THE DISTRICT ATTORNEY'S OFFICE WITH THE OFFICE OF THE ATTORNEY GENERAL**

Currently, a deputy district attorney presents evidence to the jury. The proceedings are non-adversarial in nature. Some members of the coroner's inquest review committee have expressed concern that the district attorneys work very closely with LVMPD and that due to the nature of their working relationship, the district attorneys cannot be objective during the inquest process. The committee recommends replacing the district attorney with the Office of the Attorney General.

## **4. QUESTIONING BY INTERESTED PARTIES**

The members of the coroner's inquest review committee could not come to an agreement on this issue. Currently, the district attorney controls all questions asked of the witnesses. The hearing master may permit jurors to ask questions. After the district attorney has questioned the witness, the hearing master will ask the jurors if they have questions. After the juror asks his/her question, the hearing master will tell the witness whether or not to answer the question.

Interested parties submit written questions that are reviewed by the hearing master. Often, these questions are submitted during the hearing. The hearing master reads the questions and then decides if the question is appropriate. Under the current practice, neither the jurors nor members sitting in the audience know what was submitted. If the hearing master decides to prohibit the question, the jurors and the public never learn what questions were asked. This has led to distrust of the process and a feeling that the interested parties are left without answers relating to how his/her loved one died.

Proposal from Police Protective Association (PPA): The PPA believes that the current process of submitting written questions should remain in place. They are very concerned about protecting the officer's Fifth Amendment right against self-incrimination. They believe that by introducing oral questions from interested parties, the process may become adversarial, risking the officer's constitutional protections. Under the current practice, the officer is also allowed to have a legal representative during the inquest. This attorney may also submit written questions to the hearing master. The PPA is satisfied with this practice.

Proposal from American Civil Liberties Union (ACLU): The ACLU believes that the process should be modified to allow some oral questions from interested parties. The ACLU recommends that the interested parties designate one representative to speak on behalf of the family. If this representative is a licensed attorney, that individual would be permitted to orally submit questions to the justice of the peace, who would then determine whether the question could be answered by the witness. The attorney could ask questions in the presence of the jury. The ACLU believes that licensed attorneys will not ask inappropriate questions because the court has the power to sanction them. Also, the attorneys will not be as emotional as the affected families.

In the event that the families do not have an attorney, the public defender's office has agreed to be appointed for the limited basis of assisting the family during the inquest process. This would provide indigent families with much needed legal assistance during the process. The public defender cannot represent the family in civil lawsuits against LVMPD.

In the event that a family chooses to not have an attorney, questions would be directed to the justice of the peace outside the presence of the jury. The judge would determine whether the question could be asked of the witness. Screening the questions in this manner would ensure that the jury would not be tainted by inappropriate questions or emotional outbursts.

The foregoing are the primary recommendations from the committee. Staff is seeking direction from the Commission on which recommendations to include for a revised ordinance.

  
VIRGINIA VALENTINE  
County Manager

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